



**U.S. ENVIRONMENTAL PROTECTION AGENCY, REGION 2**

October 04, 2018

BY ELECTRONIC MAIL

Robert Law, Ph.D.  
de maximis, inc.  
186 Center Street, Suite 290  
Clinton, New Jersey 08809

Re: Revised Winter and Spring 2011 Avian Community Survey Data Report for the Lower  
Passaic River Study Area

Dear Dr. Law:

The U.S. Environmental Protection Agency (EPA) has reviewed the *revised Winter and Spring 2011 Avian Community Survey Data Report for the Lower Passaic River Study Area*, dated November 20, 2015. The report was prepared by Windward Environmental LLC on behalf of the Cooperating Parties Group (CPG) for the Lower Passaic River Study Area.

EPA is providing the enclosed responses to CPG's revised data report and response to comments received on January 15, 2014 with this letter in accordance with Section X, Paragraph 44(d) of the Agreement. Please proceed with the revisions to the data report within 30 days consistent with the enclosed comments. If there are any questions or clarifications needed, please contact me to discuss.

Sincerely,

A handwritten signature in dark ink, appearing to read "Diane Salkie".

Diane Salkie, Remedial Project Manager  
Lower Passaic River Study Area RI/FS

Cc: Zizila, F. (EPA)  
Sivak, M. (EPA)  
Hyatt, B. (CPG)  
Otto, W. (CPG)

**Response to USEPA Comments on Draft Winter and Spring 2011 Avian Community Survey Data Report for the Lower Passaic River Study Area,  
dated July 17, 2012**

No.	Section	EPA Comment	CPG Response	EPA's Response
General Comments				
1		There are a number of places in the document where it is unclear whether the discussion is meant to focus on overall observations of birds or just those pertaining to aquatic and semi-aquatic species. If the goal is to focus on aquatic and semi-aquatic birds as these species are "important for the BERA" as noted in the second paragraph of Section 3 on Page 19 it is recommended that each group of birds be discussed separately for better clarity.	The report primarily focuses on presenting observations of the aquatic and semi-aquatic birds. The text has been revised to be clearer on when the discussion is focused on aquatic and semi-aquatic birds and when all birds are being discussed.	The response is acceptable. However, additional clarification is needed in Section 3 and Section 4, as noted in Specific Comment Nos. 1 and 9, respectively.
Specific Comments				
1	Page 19, Section 3, second paragraph, third sentence	Use of the term "other species" to describe an entire grouping of birds is a bit broad. Please further define.	The sentence has been revised to say that also identified were semi-aquatic species (i.e., species that may feed on aquatic organisms), such as the bald eagle.	Additional revision is needed to clarify that the "other" species listed were grouped into one category that is referenced in other parts of the report. It is recommended that a label such as "uncategorized" be applied to these species and used throughout the report when these species are referenced.  In addition, please note that the revisions made to Section 3 have resulted in several errors. There should be a period rather than a comma at the end of the second sentence in the second paragraph; there is an extra space between the third and fourth paragraphs; footnote 4 has been changed to footnote 5, although no additional footnote was added; and this footnote carries over onto page 20, when it should be on one page. Please correct these errors.
2	Page 21, Section 3.1.2, second paragraph, last sentence	It is assumed that the statement "Of the six wading birds observed, three were observed in flight." refers to great blue herons. Please clarify.	The six wading birds were great blue heron. The text has been clarified.	The response is acceptable.
3	Page 26, Section 3.2.1, fifth sentence and Appendix G	Fifth sentence "A comprehensive species list is presented in Appendix G." - For the yellow-shafted flicker the latin name in Appendix G should be "Colaptes a. auratus" to distinguish it from the northern flicker "Colaptes auratus". Please revise.	appendix G has been revised to list the yellow-shafted flicker as <i>Colaptes a. auratus</i>	The requested change to Appendix G was not made. Please revise the appendix as requested.

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4	Page 26, Table 3-2 and Appendix G	"Redstart" should be listed as "American redstart". Appendix G should also be revised to reflect this.	Both American redstart and redstart had been listed separately in Table 3-2 and Appendix G. This has been corrected by deleting "redstart" in both places. Appendix D has also been updated.	"Redstart" was deleted from Table 3-2, but not from Appendix G. Where "Redstart" was deleted from Table 3-2, there is now an empty cell between "Parula warbler" and "Tennessee warbler." Furthermore, Appendix D was not updated as indicated. Please update Appendix D and Appendix G as necessary, and remove the empty cell in Table 3-2.
5	Page 27, Section 3.2.2, second paragraph, second sentence	Please further expand on, or clarify "other species".	The text has been revised to use the category "other semi-aquatic birds" rather than "other" and specific birds in this category have been identified, when appropriate.	The revision is not clear; simply stating "other aquatic and semi-aquatic species" here implies that all aquatic/semi-aquatic species other than gulls and terns, which were already listed, were observed in flight 52% of the time. For clarity, discussion of "other aquatic and semi-aquatic species" should be presented after all of the categorized species are discussed. Alternatively provide a different label for the "other aquatic and semi-aquatic species," such as "uncategorized aquatic and semi-aquatic species."
6	Page 31, Section 3.3, first sentence	The text states that 1601 individuals and 27 different species were observed during the Spring 2011 survey; however, Section 3.2.2 states 1600 and 26. Please revise as appropriate.	The text on p. 31 has been revised. In the spring, 1600 individual aquatic and semi-aquatic birds were observed (26 species).	The response is acceptable.
7	Page 32, First paragraph, second sentence	The text states that five species of shorebirds were observed during the Spring survey. Review of Appendix D shows six. Killdeer is not mentioned or included in the summary of shorebird species in the text. Please revise.	The text has been revised to include killdeer.	The response is acceptable.
8	Page 32, First paragraph, last sentence	The text states that mallard and American black duck were only observed during the spring survey. Review of Appendix D shows that both species were observed during both the spring and winter surveys. Please revise.	The text has been revised; wood duck was the only duck species observed in the spring but not in the winter and American black duck, brant, gadwall, and mallard were observed during both seasons.	The response is acceptable.

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9	Page 33, Section 4, second paragraph	In its current form it's difficult to understand the information being conveyed. Is the purpose of the discussion to focus on total bird counts or only those that fall into the category of aquatic and semi-aquatic species? Please revise for clarity.	The primary comparison between the 1999/2000 surveys and the 2010/2011 focused on the aquatic and semi-aquatic birds. The text has been revised accordingly.	The only change made to this paragraph was to change the word "birds" to "individuals." While this does help to clarify that the numbers are referring to individual birds, and not numbers of species, additional revision is needed to clarify that this discussion focuses solely on aquatic and semi-aquatic species. For example, the first sentence could be revised to read "A greater number of aquatic and semi-aquatic bird species and individual birds <u>of these species</u> were observed..."
10	Page 38, Section 5, first paragraph	The text defines the "other" species category as "the eight aquatic and semi-aquatic species that do not fit in the categories of gulls, terns, shorebirds, swans, geese, ducks, or wading birds. These species include bald eagle, belted kingfisher, double-breasted cormorant, Northern waterthrush, osprey, red-winged blackbird, rusty blackbird, and tree swallow." For better clarity it is recommended that this information appear at the beginning of the document when the term "other species" is initially brought into the discussion.	The text defining "other" species category has been incorporated into earlier text in Section 3.	While the text added to Section 3 on page 19 is helpful, additional revision is needed to clarify that the "other" species listed were grouped into one category that is referenced in other parts of the report. It is recommended that a label such as "uncategorized" be applied to these species and used throughout the report when these species are referenced. In this case, the label "other aquatic/semi-aquatic birds" in Figure 5-3 should be replaced with "uncategorized aquatic/semi-aquatic birds."
11	Appendix A, page 2	Please note the typographical error under the column "Start Time". Please revise the time for location LPRA17 to read 14:34.	The time has been corrected.	The requested change to Appendix A was not made. Please revise the appendix as requested.